

**ASSEMBLY BILL**

**No. 481**

**Introduced by Assembly Member Calderon**

February 16, 2005

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An act to amend Sections 7507.9 and 7507.12 of the Business and Professions Code, relating to collateral recovery.

LEGISLATIVE COUNSEL'S DIGEST

AB 481, as introduced, Calderon. Repossessors.

(1) The Collateral Recovery Act provides for the licensing and regulation of repossession agencies by the Department of Consumer Affairs. Existing law sets forth a procedure for the removal, inventory, and storage of personal effects from repossessed collateral, and authorizes the debtor to waive the preparation of the inventory or the disclosure of the contents of the inventory under certain conditions. Existing law provides that a violation of the Collateral Recovery Act is a crime.

This bill would provide that a reposessor has no obligation to determine whether an accessory piece of equipment or a replacement part is a personal effect, or to determine who owns a personal effect. The bill would also authorize the party in possession of the collateral at the time of repossession to waive the preparation of the inventory or the disclosure of the inventory under the same conditions as the debtor.

(2) Existing law, with respect to collateral subject to registration under the Vehicle Code, provides that a repossession occurs when the reposessor gains entry to the collateral or when the collateral becomes attached to a tow truck or vehicle.

This bill would also provide that the act of repossession is complete under those circumstances when the reposessor immobilizes the

collateral. The bill would prohibit any person from interfering with a reposessor in the lawful performance of his or her duties, thereby creating a new crime and imposing a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7507.9 of the Business and Professions  
2 Code is amended to read:

3 7507.9. Personal effects shall be removed from the collateral.  
4 A complete and accurate inventory of the personal effects shall  
5 be made, and the personal effects shall be labeled and stored by  
6 the licensee for a minimum of 60 days in a secure manner, except  
7 those personal effects removed by or in the presence of the  
8 debtor or the party in possession of the collateral at the time of  
9 the repossession. *A reposessor shall have no obligation to*  
10 *determine whether an accessory, a piece of equipment, or a*  
11 *replacement part is a personal effect. A reposessor shall have*  
12 *no obligation to determine who owns any personal effect.*

13 (a) The date and time the inventory is made shall be indicated.  
14 The permanent records of the licensee shall indicate the name of  
15 the employee or registrant who performed the inventory.

16 (b) The following items of personal effects are items  
17 determined to present a danger or health hazard when recovered  
18 by the licensee and shall be disposed of in the following manner:

19 (1) Deadly weapons and dangerous drugs shall be turned over  
20 to any law enforcement agency for retention. These items shall  
21 be entered on the inventory and a notation shall be made as to the  
22 date and the time and the place the deadly weapon or dangerous  
23 drug was turned over to the law enforcement agency, and a  
24 receipt from the law enforcement agency shall be maintained in  
25 the records of the repossession agency.

1 (2) Combustibles shall be inventoried and noted as “disposed  
2 of, dangerous combustible,” and the item shall be disposed of in  
3 a reasonable and safe manner.

4 (3) Food and other health hazard items shall be inventoried  
5 and noted as “disposed of, health hazard,” and disposed of in a  
6 reasonable and safe manner.

7 (c) Personal effects may be disposed of after being held for at  
8 least 60 days. The inventory, and adequate information as to  
9 how, when, and to whom the personal effects were disposed of,  
10 shall be filed in the permanent records of the licensee.

11 (d) The inventory shall include the name, address, business  
12 hours, and telephone number of the repossession agency to  
13 contact for recovering the personal effects and an itemization of  
14 all personal effects removal and storage charges that will be  
15 made by the repossession agency. The inventory shall also  
16 include the following statement: “Please be advised that the  
17 property listed on this inventory will be disposed of by the  
18 repossession agency after being held for 60 days from the date of  
19 this notice IF UNCLAIMED.”

20 (e) The inventory shall be provided to a debtor not later than  
21 48 hours after the recovery of the collateral, except that if:

22 (1) The 48-hour period encompasses a Saturday, Sunday, or  
23 postal holiday, the inventory shall be provided no later than 72  
24 hours after the recovery of the collateral.

25 (2) The 48-hour period encompasses a Saturday or Sunday and  
26 a postal holiday, the inventory shall be provided no later than 96  
27 hours after the recovery of the collateral.

28 (3) Inventory resulting from repossession of a yacht, motor  
29 home, or travel trailer is such that it shall take at least four hours  
30 to inventory, then the inventory shall be provided no later than 96  
31 hours after the recovery of the collateral. When the 96-hour  
32 period encompasses a Saturday, Sunday, or postal holiday, the  
33 inventory shall be provided no later than 120 hours after the  
34 recovery of the collateral.

35 (f) Environmental, Olympic, special interest, or other license  
36 plates issued pursuant to Article 8 (commencing with Section  
37 5000), Article 8.4 (commencing with Section 5060) or Article  
38 8.5 (commencing with Section 5100) of Chapter 1 of Division 3  
39 of the Vehicle Code that remain the personal effects of the debtor  
40 shall be removed from the collateral and inventoried pursuant to

1 this section. If the plates are not claimed by the debtor within 60  
2 days, they shall be effectively destroyed and the licensee shall,  
3 within 30 days thereafter, notify the Department of Motor  
4 Vehicles of their effective destruction on a form promulgated by  
5 the chief that has been approved as to form by the Director of the  
6 Department of Motor Vehicles.

7 (g) The notice may be given by regular mail addressed to the  
8 last known address of the debtor or by personal service at the  
9 option of the repossession agency.

10 (h) The debtor *or the party in possession of the collateral at*  
11 *the time of repossession* may waive the preparation and  
12 presentation of an inventory if the debtor *or the party in*  
13 *possession of the collateral at the time of repossession* redeems  
14 the personal effects or other personal property not covered by a  
15 security interest within the time period for the notices required by  
16 this section and signs a statement that he or she has received all  
17 the property.

18 (i) If personal effects or other personal property not covered  
19 by a security agreement are to be released to someone other than  
20 the debtor, the repossession agency may request written  
21 authorization to do so from either the debtor or the legal owner.

22 (j) The inventory shall be a confidential document. A licensee  
23 shall only disclose the contents of the inventory under the  
24 following circumstances:

25 (1) In response to the order of a court having jurisdiction to  
26 issue the order.

27 (2) In compliance with a lawful subpoena issued by a court of  
28 competent jurisdiction.

29 (3) When the debtor *or party in possession of the collateral at*  
30 *the time of the repossession* has consented in writing to the  
31 release and the written consent is signed and dated by the debtor  
32 *or the party in possession of the collateral at the time of the*  
33 *repossession* subsequent to the repossession and states the entity  
34 or entities to whom the contents of the inventory may be  
35 disclosed.

36 SEC. 2. Section 7507.12 of the Business and Professions  
37 Code is amended to read:

38 7507.12. With regard to collateral subject to registration under  
39 the Vehicle Code, ~~a the act of repossession occurs~~ *is complete*  
40 *when the reposessor gains entry to the collateral, when the*

1 *repossessor immobilizes the collateral, or when the collateral*  
2 *becomes connected to a tow truck or the reposessor's tow*  
3 *vehicle; as those terms are defined in Section 615 of the Vehicle*  
4 *Code. No person shall interfere with a reposessor in the lawful*  
5 *performance of his or her duties once the reposessor has*  
6 *identified himself or herself by displaying his or her license,*  
7 *certificate, or registration issued pursuant to this chapter.*

8 SEC. 3. No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 the only costs that may be incurred by a local agency or school  
11 district will be incurred because this act creates a new crime or  
12 infraction, eliminates a crime or infraction, or changes the  
13 penalty for a crime or infraction, within the meaning of Section  
14 17556 of the Government Code, or changes the definition of a  
15 crime within the meaning of Section 6 of Article XIII B of the  
16 California Constitution.